IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO. 4 OF 2007

R.S. Mandrekar .. Petitioner

V/s

M/s Amul Crankshaft Pvt. Ltd. .. Respondent

Mr.M.J. Jamdar for the Petitioner.

CORAM : H.L. GOKHALE, ACG. CJ.

DATE : 2ND MARCH 2007

P.C. :

1. Heard Mr.Jamdar in support of this Petition.

2. The Petitioner is a Project Consultant whose services were availed of by the Respondents in the matter of construction of their factory. The Petitioner raised bills from time to time and as on 16th February 2006, the unpaid fees were over Rs.6.68 lakhs. Agreement between the parties provided for an arbitration. The arbitration clause provides that a dispute between the consultant and the client will be referred to a sole Arbitrator. However, if the parties do not agree, there will be two Arbitrators, one each to be appointed by either of the parties and the Presiding

Arbitrator is to be appointed by the two nominated Arbitrators.

3. The Petitioner accordingly appointed Hon'ble Mr.Justice S.M. Daud (Retd.) of this Court as an Arbitrator. The Respondents appointed one Mr.Tarunkumar V. Shah as their representative Arbitrator. Thereafter, the Petitioner wrote to Mr.Shah asking him to agree to the appointment of the presiding arbitrator and the name suggested was that of Hon'ble Mr.Justice G.H. Guttal (Retd.). Mr.Shah has not responded though the Respondents have contended that the occasion to appoint the presiding arbitrator arises only in the event of difference between the parties. Mr.Jamdar points out that there is no such provision in the clause providing for arbitration.

4. In any case, notice was issued to the Respondents on 2nd February 2007 and it was made returnable today. The office has made an endorsement that the Respondents have been duly served. The Respondents have not caused any appearance.

5. In the circumstances, the petition is allowed and Hon'ble Mr.Justice G.H. Guttal (Retd.) is appointed as the Presiding Arbitrator in terms of the Agreement

dated 16th September 2005 under section 11 of the Arbitration and Conciliation Act, 1996. There will be no order as to costs. The Petitioner will convey this order to Hon’ble Mr.Justice G.H. Guttal.

ACTING CHIEF JUSTICE